IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 140 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PANCHAL ASHOKKUMAR HARILAL

Versus

DINESHKUMAR KANTILAL SONI

Appearance:

MR VIJAY H PATEL for Petitioner

MR PS CHAMPANERI for Respondent No. 1

MR ST MEHTA APP for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 19/09/2000

ORAL JUDGEMENT

This revision application under Section 397 read with Section 401 CrPC has been preferred by the accused in Criminal case no. 1497 of 1995.

It appears that accused publishes a Weekly Newsletter in the name of `Our News'. The accused is alleged to have published certain defamatory material against one Dinesh Patadia, the complainant. Feeling aggrieved, the complainant, who happens to be the brother-in-law of the above referred Dinesh Patadia lodged a complaint in the court of learned Judicial Magistrate, First Class, and alleged that the accused had committed offence punishable under Section 500, 501 and 502 IPC. It appears that on presentation of complaint, the learned Magistrate issued summons against the accused. The accused made an application Exh. 7 for discharge. The said application was allowed by the learned Magistrate on 16th November, 1995. The accused was ordered to be discharged and the notice was ordered to be issued under Section 250 IPC calling upon the complainant to show cause why he should not be ordered to pay compensation to the accused. Feeling aggrieved, the complainant preferred Criminal Revision Application No. 130 of 1995 before the Sessions Court, Mehsana. The learned Addl. Sessions Judge, Mehsana by his judgment and order dated 22nd March, 1996 allowed the application and quashed the order of discharge made on 16th November, 1995 and directed the Magistrate to try the case in accordance with law. Feeling aggrieved, the accused has preferred the present revision application.

The learned Addl. Sessions Judge has rightly held that the complaint lodged against the accused was summons triable and in view of the provision contained in Chapter XX of the Code of Criminal Procedure, the accused could not have been discharged without following the procedure prescribed under the said Chapter. It is undisputed that the procedure prescribed for trial of summons cases does not envisage an order of discharge without recording the plea of the accused as is being done in the warrant triable cases. No interference is, therefore, warranted. Revision Application is dismissed. Rule is discharged. Interim relief is vacated.

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Prakash*